

(2) The physician's or practitioner's opt-out of Medicare is nullified.

(3) The physician or practitioner must submit claims to Medicare for all Medicare-covered items and services furnished to Medicare beneficiaries.

(4) The physician or practitioner or beneficiary will not receive Medicare payment on Medicare claims for the remainder of the opt-out period, except as provided in paragraph (c) of this section.

(5) The physician is subject to the limiting charge provisions of § 414.48 of this chapter.

(6) The practitioner may not reassign any claim except as provided in § 424.80 of this chapter.

(7) The practitioner may neither bill nor collect any amount from the beneficiary except for applicable deductible and coinsurance amounts.

(8) The physician or practitioner may not attempt to once more meet the criteria for properly opting-out until the 2-year opt-out period expires.

(c) Medicare payment may be made for the claims submitted by a beneficiary for the services of an opt-out physician or practitioner when the physician or practitioner did not privately contract with the beneficiary for services that were not emergency care services or urgent care services and that were furnished no later than 15 days after the date of a notice by the carrier that the physician or practitioner has opted-out of Medicare.

§ 405.440 Emergency and urgent care services.

(a) A physician or practitioner who has opted-out of Medicare under this subpart need not enter into a private contract to furnish emergency care services or urgent care services to a Medicare beneficiary. Accordingly, a physician or practitioner will not be determined to have failed to maintain opt-out if he or she furnishes emergency care services or urgent care services to a Medicare beneficiary with whom the physician or practitioner has not previously entered into a private contract, provided the physician or practitioner complies with the billing requirements specified in paragraph (b) of this section.

(b) When a physician or practitioner who has not been excluded under sections 1128, 1156, or 1892 of the Social Security Act furnishes emergency care services or urgent care services to a Medicare beneficiary with whom the physician or practitioner has not previously entered into a private contract, he or she:

(1) Must submit a claim to Medicare in accordance with both 42 CFR part 424 and Medicare instructions (including but not limited to complying with proper coding of emergency or urgent care services furnished by physicians and practitioners who have opted-out of Medicare).

(2) May collect no more than—

(i) The Medicare limiting charge, in the case of a physician; or

(ii) The deductible and coinsurance, in the case of a practitioner.

(c) Emergency care services or urgent care services furnished to a Medicare beneficiary with whom the physician or practitioner has previously entered into a private contract (that is, entered into before the onset of the emergency medical condition or urgent medical condition), are furnished under the terms of the private contract.

(d) Medicare may make payment for emergency care services or urgent care services furnished by a physician or practitioner who has properly opted-out when the services are furnished and the claim for services is made in accordance with this section. A physician or practitioner who has been excluded must comply with the regulations at § 1001.1901 (Scope and effect of exclusion) of this title when he or she furnishes emergency services to beneficiaries and may not bill and be paid for urgent care services.

§ 405.445 Renewal and early termination of opt-out.

(a) A physician or practitioner may renew opt-out by filing an affidavit with each carrier with which he or she would file claims absent completion of opt-out, provided the affidavits are filed within 30 days after the current opt-out period expires.

(b) To properly terminate opt-out a physician or practitioner must:

(1) Not have previously opted out of Medicare.